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ABSTRACT

A series of proposals is presented to create a system of governance for the California community colleges and to define the respective responsibilities of the state Board of Governors and local governing boards. First, background information is presented, underscoring the need to create a system with greater authority to govern. This section describes the extensive involvement of the legislature in current community college governance and policymaking, identifies obstacles which must be overcome in order to provide the system with greater authority to govern its own affairs, and summarizes the efforts of those within the system to reach agreement on the delineation of the respective roles of the Board of Governors and local governing boards. Finally, the draft delineating the new roles is presented in three sections. Section 1 creates the "California Community Colleges" as a postsecondary system consisting of local districts and a coordinating district, while sections 2 and 3 establish the responsibilities of the Board of Governors and district governing boards respectively. Appended are the sections of the 1969 Education Code which delineate functions of the Board of Governors, a summary of the 1976 education code provisions, and a proposal for improving community college governance based on the "coordinating district" concept. (LAL)

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BOARD OF GOVERNORS OF THE
CALIFORNIA COMMUNITY COLLEGES
April 16-17, 1987

EDUCATION CODE REVIEW: DELINEATION OF GOVERNANCE FUNCTIONS

1

For Information

Thomas J. Nussbaum
Vice Chancellor and General Counsel

JC 870 158

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For Information

Summary

The Commission for the Review of the Master Plan, the Joint Legislative Committee and authorities on community college governance have all recognized the need for community colleges to function as a system, with greater authority to govern its affairs apart from the Legislature. Achieving this reform will be a complicated matter, dependent upon at least three critical steps:

- establishing a system (comprised of the Board of Governors and local governing boards) that operates *apart from but in response to* the State. Conceptually, this will mean emphasizing the commonality of interest between the Board of Governors and district governing boards, and de-emphasizing the Board's ties and connections to the State;

- deciding what functions the system should be expected to perform; and, within the system, deciding the respective governance roles of district governing boards and the Board of Governors; and

- rewriting the community college portions of the Education Code so that the statutory body of law is consistent with, and does not unduly intrude upon, matters to be addressed by and within the system.

The Education Code Review, proposed by the Board of Governors in its 1986 Basic Agenda, has been designed to accomplish these steps during 1987 and 1988. Specifically, in connection with reform legislation to be developed this year, it is intended that the community college system will be established and its functions determined. The proposals contained in this item, to be acted upon by the Board in May, provide the language to both create the system and define the major respective responsibilities of the Board of Governors and local governing boards.

During the remainder of 1987, all community college provisions of the Education Code will be analyzed against this statement of governance responsibilities, and, using established consultation processes and a technical advisory committee, bill language will be developed to conform the Code. This legislation will be introduced early in 1988, will be sponsored by the Board, and will be subject to its ongoing review while moving through the legislative process.

This item describes how current community college governance and policymaking are characterized by extensive involvement of the Legislature, identifies obstacles which must be overcome in providing the system greater authority to govern its own affairs, summarizes the efforts of those within the system itself to reach agreement on the delineation of the respective roles of the Board of governors and local governing boards, and provides a draft of the new delineation of responsibilities for Board review.

The draft of the new delineation, commencing on page 12, contains three sections: one creating the system, one establishing the responsibilities of the Board of Governors, and one establishing the responsibilities of district governing boards. The delineation has been developed mostly by clarifying, adapting and harmonizing existing statutes which fix broad responsibilities for the Board and districts. The effect of the delineation, when implemented against the rest of the Education Code, will be to vest considerable governance authority in the new system.

Staff Presentation. *Thomas J. Nussbaum*
Vice Chancellor and General Counsel

Background

A. *Creating A System with Greater Authority to Govern*

Both the Commission for Review of the Master Plan and the Joint Committee for Review of the Master Plan have recommended the explicit recognition and creation of a "community college system," a system of colleges governed by local governing boards and the Board of Governors. Embodied in this recommendation is an intent to improve and strengthen governance **both by and within** the system. Stated more directly, the recommendation embodies an intent to enable the Board of Governors and districts to respond to State interests and concerns **as a system** -- through the system's own internal governance mechanisms -- rather than having to be so reliant on the Legislature to resolve so many policies and issues.

Current law and practice do not reflect the existence of this system; indeed, the current structure of governance for community colleges has built-in tendencies that make the realization of such a system very problematic. District and college educators must be convinced that a system will enhance their ability to control and deliver quality programs and services; and the Legislature must be convinced that it should entrust the system with greater authority to govern its own affairs. Creating the system by name is one thing; but vesting it with real authority to govern will be an entirely different matter.

The concept of a system is problematic for many educators in community college districts and colleges because they lack a strong commonality of interest with the Board of Governors and instead view it as part of the State. Through a body of some 2,200[1] statutes, the Legislature separately regulates the functions of the Board of Governors and district governing boards, often with great prescriptiveness. The Board of Governors, created as a state agency and provided with a long list of specific functions, is conceived of as an arm of the State. Under these conditions, any empowering of the Board is viewed as strengthening "state control." The Legislature, Governor and Board of Governors are all viewed as the *State*, and the seventy districts tend to conceive of themselves as the *system*. Consequently, joining forces with the Board to create a system appears only to be a different way of being controlled by the State.

While the Legislature may well establish the system in name, strong elements of skepticism must be overcome before it actually empowers the system with greater authority to govern its own affairs. Throughout the history of the

[1] California, with its 2,200 statutes governing community colleges has almost *twice the combined total* of community college statutes for the following 10 industrial states: Illinois (275), Oregon (200), Michigan (200), New Jersey (175), Florida (125), Texas (110), Arizona (100), New York (50), Massachusetts (35), Ohio (35).

community colleges (due largely to their K-14 beginnings) the Legislature has expressed its will in a highly directive manner: districts and the Board of Governors have been told *what*, *when* and *how* to carry out the State interest rather than being empowered to carry out that interest and then being held accountable for results.

This history of extensive legislative involvement in community college policy-making is self-reinforcing. Because the scope of its control over community colleges is so directive and specific, the Legislature necessarily becomes the *court of first resort* for many community college issues and problems. Because most matters are controlled by statute, specific change in policy (and behavior) cannot occur absent legislative action. The Legislature thus becomes the focal point for policy change, which in turn is reinforced because community college constituencies recognize the need to organize and represent their interests before that body.

When legislators consider these many issues and problems associated with community colleges, they often express frustration that the issues haven't previously been dealt with by the Board of Governors and districts. Also, they often express frustration that the community colleges lack a coherent or unified voice on how to address such issues and problems. These frustrations neither increase their confidence in the system nor lead them to believe the Board and districts should be given greater authority. Instead, the tendencies are strong for the Legislature to retain specific control of issues and policies -- at least until the system can provide a better accounting of its actions and present a more unified voice on how to address the issues.

A vicious circle thus occurs: those in the districts and colleges (as well as their various organizational constituencies) view the Board of Governors as part of the State and know that the Legislature has the real control of most matters. The ineluctable tendency is to deal directly with the Legislature, which, in turn, creates the ineluctable tendency for a multitude of voices before that body. This multitude of voices creates strong incentives for the Legislature to maintain specific control of issues, and strong disincentives for it to empower a system that it doesn't view as unified or responsive.

Ironically, while this vicious circle tends to stultify the will to establish a system, the creation of a system is clearly in the interests of the Legislature, district governing boards and the public generally.

Negotiating changes to a body of 2200 statutes and annually making piecemeal policy directives on hundreds of proposals diverts the Legislature's attention from the major community college issues which merit its full attention. Given its broad constitutional responsibilities and the diverse scope of societal issues it must deal with, when the Legislature devotes time to community colleges it should be focusing its attention on such issues as the mission of colleges, the

general method for financing the institutions, the amount of money annually available to the colleges in light of current revenues and other societal priorities, the interrelation of the community colleges with the other segments of education, and the broad roles of district governing boards and the Board of governors in delivering community college education to the people.

The Legislature assumes an unworkable and unnecessary burden in attempting to reserve so many aspects of community college education to its own statutory directives. In addition, by making itself the arena of first resort on such an expansive array of policies, the Legislature invites disharmony from the system and perpetuates its own skepticism about the viability of entrusting more authority to the system.

The Legislature's interests (as well as the public interest) is better served by empowering the Board and districts to carry out certain broad responsibilities, and then focusing attention on how the system is exercising this authority. The Legislature has plenary power over community colleges, and therefore always has the authority to be more directive when the need arises.

The Legislature need not be directive from the outset, however. Instead, the Legislature should give the system an opportunity to carry out these broad responsibilities, should monitor the system's actions to carry out these responsibilities, and should intervene with more directive policies when necessary to achieve the State interest. By taking this approach, the Legislature will be able to focus its community college policymaking attention to the "big picture" issues alluded to earlier; and, perhaps more important, the system will have an opportunity to demonstrate that it can be entrusted with greater authority to govern.

The establishment of a system comprised of local governing boards and the Board of Governors is also clearly in the interests of districts and the constituencies that operate within them. Given that current statutes so extensively direct the behavior of local boards and the Board of Governors, community colleges in reality operate under a very centralized governance structure. District officials must recognize, however, that the Legislature will not relinquish control over these specifics unless it believes there is an accountable governance structure in place to address these policies. District officials must answer these questions: Can the Legislature be expected to simply vest districts with greater authority to govern? If the Legislature does, how will it monitor the activities of seventy different districts to determine if they are exercising this authority properly? And, if the Legislature does decide to intervene with more directive policies, how can it, when restricted to adopting laws of general application, avoid regulating the activities of all districts in order to get at a problem that may exist in only one or a few?

For the Board of Governors to be seen as part of the State and continue to perform a long list of directive functions means that the Board is the agent of the Legislature. It means a perpetuation of specific legislative policymaking. It means the Legislature and other state officials will see the colleges as divided and troubled and weakly governed. For the Board of Governors to be seen as part of the system means that the Legislature can begin to delegate broader authority to the system, that the Board can represent the actions of the system to the State, and that the Board and districts can begin to govern themselves on matters formerly controlled by legislative policy.

Despite the recommendations of the Commission for Review of the Master Plan and the Joint Legislative Committee, and despite the fact that a system with greater authority to govern is in the public interest, recommendations and good reason alone will not a system make. Instead, establishing a system with greater authority to govern will require the cooperative action of the legislative and executive branches of government, the Board of Governors, local governing boards and community college officials and organizations. While the Legislature has the authority to establish and empower the system, its willingness and ability to do so unilaterally is highly improbable. In the face of unilateral action there will be great disagreement about appropriate functions among the Board, local boards, and community college organizations. The multitude of voices will create strong disincentives for empowering a system that isn't unified or responsive.

In all probability, the system will never be entrusted with greater authority to govern its own affairs unless it comes together to ask for this authority, unless it, internally, has come to some agreement on the appropriate roles of the Board and districts within that system, and unless it demonstrates that it can be entrusted with broader responsibility. As stated by Chancellor Smith in December of 1986:

> It is time to recognize that we have an obligation to demonstrate that we can be entrusted with greater responsibility to govern ourselves as a system. . . I'm talking about a system which **earns** this responsibility by demonstrating that, in spite of this statutory miasma, we can come together in certain elemental ways to govern ourselves as a system. . . Absent some evidence of our willingness and ability to govern ourselves, and absent some demonstration that the system will address important educational issues, the trust and confidence necessary for legislative disengagement will never develop. . .

In the starkest terms, empowerment of the system is dependent on the system demonstrating that it can govern itself; and demonstrating that it can govern itself is dependent upon the system coming to agreement on the respective roles of the Board of Governors and district boards in governing the system. Absent

agreement by those within the system on the respective governance roles of the Board of governors and districts, there can be no demonstration that the system has the capacity to govern its own affairs. Even in the unlikely event the Legislature might act in the absence of this demonstration, the resulting empowerment of the system -- the delineation of Board and district roles -- would be imposed from without rather than decided from within. The result, inevitably, would be a less powerful and more tenuous form of empowerment.

B. *Delineation of Authority*

Given that the Board of Governors, district governing boards and those associated with community colleges must come together to seek greater authority, the questions become: With what authority should the system be entrusted, what should be the respective roles of the Board of Governors and district governing boards within the system, and how should this task be approached?

The approach is fundamentally important, and involves two basic precepts: First, all those involved in the system's governance should be involved in discussing and attempting to come to agreement on the respective roles of the Board of Governors and district governing boards. The delineation of authority to the Board of Governors and districts constitutes the empowerment of the system, and the widest possible understanding and acceptance of these roles from within is critical to the success of the system. Second, the Legislature should be presented with an empowerment of the system which is reasonable and realistic. The Legislature should not be expected to support a wholesale divestment of authority; rather the delineation should come, as much as possible, from statutes or concepts already embraced by the Legislature.

The methodology, therefore, has been to start with **existing statutes** that delineate governance responsibilities; to discuss the continued relevance of each of these provisions in light of changes since they were enacted, and in light of the recommendations of the Commission for Review of the Master Plan and the Joint Legislative Committee; and to build understanding and acceptance of each of these functions from within the system.

Certain existing statutes provide excellent grist for creating the new delineation of authority. The Board of Governors, created in 1967, was charged to "provide leadership and direction in the continuing development of the California Community Colleges," with its work at all times to be directed to maintaining maximum local control in the administration of the colleges. No specific powers and duties of the Board or districts were enacted; rather, the Legislature called for a study (by the Coordinating Council for Higher Education) of the appropriate governance roles of the Board of Governors and local districts.

In 1969, the Legislature largely adopted the Coordinating Council's study by enacting legislation delineating the major functions of the Board of Governors and local districts (see Appendix A). This action was a major policy break through in that it, for the first time, established a conceptual framework for community college governance. Major elements of control and authority were vested with the Board of Governors and local districts; and the exercise of many functions were left subject to the control and regulation of the Board rather than through specific statutes enacted by the Legislature. For the first time, therefore, lines of accountability were clarified. The Board of Governors was accountable to the State (the Legislature and the Governor), while districts were accountable to the Board of Governors and their electorates. However, because this delineation was simply superimposed over a highly specific set of statutes which directly regulated districts without making any adjustments to these statutes, the delineation was never given a chance to work.

'Starting in December of 1986 to use the new consultation process for systemwide policy development, staff began to meet with district and organizational representatives to draft a new working statement of governance responsibilities. Using the 1969 legislation as the point of departure, representatives of community college trustees, chief executive officers, administrators, the academic senate, faculty unions, students and other community college organizations engaged in discussions over the continued relevance and appropriateness of each and every provision within the 1969 legislation. Added to the discussion were additional provisions of the Education Code which establish major governance responsibilities (see Appendix B); the recommendations of the Commission for the Review of the Master Plan and Joint Legislative Committee regarding governance; and previous research and policy papers, such as **Understanding Community College Governance**; **A New Partnership in Governance**, and **Toward Excellence**.

Over a period of four months, discussions on the new working delineation of governance responsibilities have progressed to the point where the document should be made more widely available for review, not only by those in the colleges, but also by those who may be involved in legislating these governance changes. At its May 28-29 meeting, after any necessary additional refinements are incorporated into the document, the Board will be asked to endorse the delineation. Following this action, district governing boards and other community college constituencies will also be asked to do the same.

The endorsed working delineation will then be taken to the Legislature for inclusion in whatever community college reform bill that emerges in 1987. In addition, the new working delineation will be used to conduct the section-by-section review of the community college portion of the Education Code that will result in legislation to be introduced in January of 1988.

C. *Highlights of Delineation*

The current draft of the delineation of governance responsibilities commences on page 12. The text of each function is contained in the right-hand column, with explanatory text located to the left. For purposes of highlighting the document, however, three important aspects should be noted:

1. **The delineation is largely based on current law.** Most of the provisions in the governance structure are slightly paraphrased or updated versions of statutes contained in the 1969 delineation. Other provisions in the delineation are drawn from other statutes which fix major governance roles for the Board of Governors or districts. New governance functions are directly tied to recommendations of the Commission for Review of the Master Plan and Joint Legislative Committee. In this sense the delineation is not a new, radical, or conjectural view of governance responsibilities; instead it is mostly a clarification and harmonization of current governance functions.

2. **The "coordinating district" concept is unique, and is not yet widely accepted as part of the delineation.** One means of increasing commonality with district governing boards is to have the Board of Governors cease functioning as a state agency and to reconstitute it as a class or kind of community college district. The Legislature has this authority pursuant to Article IX, Section 14 of the State Constitution. Taking this step involves several implications, which are explored in Appendix C.

   At this point, the proposal to recreate the Board as a coordinating district is still considered preliminary. Further discussion is required to determine whether it should remain as part of the delineation.

3. **The primary role of the Board of Governors reflects the community-based mission of community colleges.** Section 71023 of the Education Code (enacted when the Board was created in 1967) provides:

   > 71023. It is the intent of the Legislature that the Board of Governors of the California Community Colleges shall provide leadership and direction in the continuing development of community colleges as an integral and effective element in the structure of public higher education in the state. The work of the board shall at all times be directed to maintaining and continuing, to the maximum degree permissible, local autonomy and control in the administration of the community colleges. *(emphasis added)*

On the other hand, Section 71062 (enacted as part of the 1969 delineation of functions legislation) provides:

> 71062. The Board of Governors shall adopt rules and regulations not inconsistent with the laws of this state for the government and supervision of the public community colleges. *(emphasis added)*

Also, as part of the Donahoe Higher Education Act (1960), statute provided:

> 66700. The public community colleges are secondary schools and shall continue to be a part of the public school system of this state. The Board of Governors of the California Community Colleges shall prescribe minimum standards for the formation and operation of public community colleges and exercise general supervision over public community colleges. *(emphasis added)*

A reading of these various mandates leaves one very confused about the basic role of the Board: is it to provide leadership, direction, support, representation, coordination, and advocacy; or is the Board's role to supervise, govern and regulate the community colleges? Clearly, the Board has authority to perform all these functions. But where is the emphasis to be placed? Without clarification, the Board is subject to somewhat contradictory expectations of what it is to do, creating a great disparity of opinion about its appropriate role.

Fundamentally, the Board's role in governance must be one which is consistent with the mission of the community colleges. Given the fact that the mission of the colleges has been and continues to be community-based, the system's governance structure should reflect a deference for decisionmaking that is close to the community. The systemwide governing board's role is to ensure that the districts carry out their roles, and also to ensure that the state interest is carried out. Except when necessary to further or protect an important state interest, the role of the Board should not be directive or prescriptive from the outset. Instead, the Board should continuously monitor the efforts of districts, attempt to lead and shape those efforts, and then direct those efforts if they remain contrary to the state's interest.

The responsibility to provide leadership and direction, as required in Section 71023, captures all essential elements of the Board's role. The provision can be read to embrace not only guidance and assistance, but also the power to regulate. That is, to accomplish leadership and

direction it may be necessary to supervise and regulate. Section 71023 provides a definitive statement about when it is appropriate to regulate: "The work of the board shall at all times be directed to maintaining and continuing, to the maximum degree permissible, local autonomy and control in the administration of the community colleges." *(emphasis added)*

Read literally, the Board should not resort to its general power of regulation and supervision as a means of providing leadership and direction unless other methods of providing direction have not worked, or unless other methods can be shown to be unworkable. Further, even in the instance of a specific requirement to regulate, the Board should, at all times, exercise this authority in such a way as to preserve maximum local authority and control.

By consolidating the major powers and duties of the Board into a single section, and by making them all subject to Section 71023, a critical clarification of the Board's role will be accomplished. The Board will retain necessary power to regulate and supervise while at the same time being required to use other methods of providing leadership and direction whenever possible. Also, the users of the Code will see how all these broad responsibilities fit together, rather than having to sift through the entire body of law to gain understanding.

Delineation of Governance Functions

(draft for discussion purposes only: 3/19/87)

Section 1 creates the "California Community Colleges" as a postsecondary system. The system consists of local districts and a coordinating district. The roles of each are provided in Sections 2 and 3. The changes described in these sections harmonize and clarify current statutes on governance. While the changes do not substantially alter the current powers and duties of the Board of Governors and local districts, they do effect an important change in configuration. The Board of Governors would clearly be part of an educational system that operates in response to but apart from the State. The implications of the coordinating district are discussed in Appendix C.

SEC. 1. There is hereby created the California Community Colleges, a postsecondary education system which shall consist of local community college districts heretofore and hereafter established pursuant to law, and a coordinating district (established as a class or kind of district pursuant to Article IX, Section 14 of the California Constitution). The coordinating district shall carry out the functions specified in Section 2, and shall be governed by the Board of Governors of the California Community Colleges. Local districts shall carry out the functions specified in Section 3, and shall be governed by elected boards of trustees.

Subsection (a) restates Section 71023. This subsection states the primary role of the Board of Governors. The statement of this primary role recognizes that the power to provide leadership and direction embraces the power to regulate. All activities and work of the Board are subject to the charge to maintain local control contained in the second sentence.

SEC. 2. (a) The Board of Governors shall provide leadership and direction in the continuing development of the California Community Colleges as an integral and effective element in the structure of public higher education in the state. The work of the Board shall at all times be directed to maintaining and continuing, to the maximum degree permissible, local authority and control in the administration of the California Community Colleges.

Subsection (b) recognizes the Board's role of general supervision (as contained in Section 66700) but relates this authority to subsection (a), and requires consultation in connection with the exercise of specific functions.

(b) Subject to and in furtherance of subsection (a), and in consultation with districts and other interested parties as specified in subsection (e), the Board of Governors shall provide general supervision over local community college districts, and shall, in furtherance thereof, perform the following functions:

(1) Establish minimum standards as required by law, including but not limited to:

Subsection (b)(1)(A) restates Section 200.7/71066.

(A) Minimum standards to govern student academic standards relating to graduation requirements and probation, dismissal, and readmission policies;

Subsection (b)(1)(B) restates Section 200.11/71068.

(B) Minimum standards for the employment of academic and administrative staff in community colleges;

Subsection (b)(1)(C) restates Section 66700.

(C) Minimum standards for the formation of community colleges and districts;

Subsection (b)(1)(D) restates Section 200.9/71027. The word "minimum" has been inserted, and the word "criteria" deleted.

(D) Minimum standards for credit and noncredit classes; and

Subsection (b)(1)(E) restates Section 200.22/71079. The words "procedures to be used" have been replaced with the words "standards for procedures established." Specific attention has been given to delineating the role of faculty.

(E) Minimum standards governing procedures established by local district boards to insure faculty the right to confer regarding academic and professional matters, and the right of employees and students to participate effectively in district and college governance.

Subsection (2) is new, and implements recommendation #52 of **The Challenge of Change**, *recommendation #75 of the Joint Legislative Committee, and recommendations contained in* **Toward Excellence** *and* **A New Partnership in Governance**.

(2) Evaluate the fiscal and educational effectiveness of community college districts according to established outcome measures.

Subsection (b)(3) restates Section 200.12/71069.

(3) Conduct necessary systemwide research on community colleges and shall provide appropriate information services, including, but not limited to, definitions for the purpose of uniform reporting, collection, compilation and analysis of data for effective planning and coordination, and dissemination of information.

Subsection (b)(4) restates Section 200.14/71071, except that implicit roles regarding advocacy and accountability are now express.

(4) Provide representation, advocacy and accountability for the California Community Colleges before state and national legislative and executive agencies.

Subsection (b)(5) restates Section 200.15/71072. Subsection (b)(5)(A) is new language which clarifies existing Government Code requirements for State agencies to prepare annual budgets (See Government Code Sections 13220-13223). The language would codify current practice. The new wording in Subsection (b)(5)(B) allows the Board to determine such details of the finance mechanism that the Legislature chooses to delegate to the Board. Finally, subsection (b)(5)(C) restates Section 200.19/ 71076.

(5) Administer state support programs, both operational and capital outlay, and those federally-supported programs for which the Board has responsibility pursuant to state or federal law. In so doing, the Board shall:

(A) Annually prepare and adopt a proposed budget for the California Community Colleges. The proposed budget shall, at a minimum: identify the total revenue needs for serving educational needs within the mission, the amount to be expended for the state general apportionment, the amounts requested for various categorical programs established by law, the amounts requested for new programs and budget improvements, and the amount requested for systemwide administration.

The proposed budget for the California Community Colleges shall be submitted to the Department of Finance in accordance with established timelines for development of the annual budget bill;

(B) To the extent authorized by law, establish the method for determining and allocating the state general apportionment; and

(C) Establish space and utilization standards for facility planning in order to determine eligibility for state funds for construction purposes.

Subsection (b)(6) restates Sections 71025 and 71026. The words "minimum conditions" have been substituted for "minimum standards," so as to distinguish these conditions from the minimum standards addressed in Subsection (b)(1). The Board can still designate any of its minimum standards as "minimum conditions" if it so elects.

(6) Establish minimum conditions entitling districts to receive state aid for support of community colleges. In so doing, the Board shall establish and carry out a periodic review of each district to determine whether it has met the minimum conditions prescribed by the Board.

Subsection (b)(7) restates Section 200.4/71064.

(7) Coordinate and encourage interdistrict, regional and statewide development of community college programs, facilities and services.

Subsection (b)(8) restates Section 200.13/71070.

(8) Facilitate articulation with other segments of higher education and with secondary education.

Subsection (b)(9) restates Section 200.6/71028. The term "comprehensive plans" has been used to substitute for "academic" and "facilities" master plans.

(9) Review and approve comprehensive plans for each local community college district. Such plans shall be submitted to the Board by the governing board of each local community college district.

Subsection (b)(10) restates a portion of Section 78200. It replaces Sections 220.8 and 200.10.

(10) Review and approve all educational programs offered by districts, and all courses which are not offered as part of an educational program approved by the Board.

Subsection (b)(11) restates Section 200.3/71063. The last portion of Section 200.3 has been omitted as unnecessary.

(11) Exercise general supervision over the formation of new community college districts and the reorganization of existing community college districts, including the approval or disapproval of plans therefor.

Subsection (b)(12) restates Section 200.16/71073, and 71080.

(12) Establish a uniform system of budgeting and accounting for local districts.

Subsection (b)(13) restates Section 200.18/71075.

(13) Establish policies regarding interdistrict attendance of students.

Subsection (b)(14) restates a portion of Section 72233 and incorporates general responsibilities found in Section 71041.

(14) Advise and assist local governing boards on the implementation and interpretation of state and federal laws affecting community colleges, including Section 72233 of the Education Code.

(15) Carry out such other functions as expressly provided by law.

Subsection (c) incorporates essential elements of Sections 71020 and 71062. Regulations to execute functions specified in this section will have the force and effect of law. If the Board does not adopt a policy as a regulation, it will not have the force and effect of law.

(c) Subject to and in furtherance of subsection (a), the Board of Governors shall have full authority to adopt rules and regulations necessary and proper to execute the functions specified in this section, as well as such other functions which the Board is expressly authorized by statute to regulate.

Subsection (d) incorporates Section 71091, and also adds language to clarify that the Board cannot delegate functions which the Legislature establishes as nondelegable. Also, the language of Section 71091 is expanded to authorize delegation to district boards, and officers, employees or committees within the system.

(d) Wherever in this section or other statute a power is vested in the Board, the Board, by a majority vote, may adopt a rule delegating such power to the Chancellor, or any district, officer, employee or committee of the California Community Colleges as the Board may designate; provided, however, the Board shall not delegate any power which is expressly made nondelegable by statute. Any rule delegating authority shall prescribe the limits of delegation.

Subsection (e) is new -- added to require consultation.

(e) In performing the functions specified in this section, the Board of Governors shall establish and carry out a process for consultation with institutional representatives of districts so as to insure their participation in the development and review of policy proposals. The consultation process shall also afford community college organizations, as well as interested individuals and parties, an opportunity to review and comment on proposed policy before it is adopted by the Board of Governors.

Sec. 3(a) incorporates essential elements of Sections 72230, 72282, and 72233 to establish a statement of the primary role of districts. The authority of the permissive code (Section 72233) is embodied in the statement.

SEC. 3. (a) Every local community college district shall be under the control of a board of trustees, which is otherwise referred to herein as the "governing board." The governing board of each local community college district shall establish, maintain, operate and govern one or more community colleges in accordance with law. In so doing, the governing board may initiate and carry on any program, activity, or may otherwise act in any manner which is not in conflict with or inconsistent with, or preempted by, any law and which is not in conflict with the purposes for which community college districts are established.

(b) In furtherance of the provisions of subsection (a), each governing board shall:

Subsection (b)(1) restates Sections 72231.5 and 71028. It is largely the same as former Section 1010.3 in the 1969 delineation.

(1) Establish policies for, and approve, current and long-range educational plans and programs and promote orderly growth and development of the community colleges within the district. In so doing, the governing board shall, as required by law, establish policies for, develop and approve, comprehensive plans. The governing board shall submit such comprehensive plans to the Board of Governors for review and approval.

Subsection (b)(2) restates Section 78200.

(2) Establish policies for and approve courses of instruction and educational programs. Such educational programs shall be submitted to the Board of Governors for approval. Courses of instruction which are not offered in approved educational programs shall be submitted to the Board of Governors for approval. The governing board shall establish policies for, and approve, individual courses which are offered in approved educational programs without referral to the Board of Governors.

Subsection (b)(3) restates Section 72285/1010.6.

(3) Establish academic standards, probation and dismissal and readmission policies, and graduation requirements not inconsistent with the minimum standards adopted by the Board of Governors.

Subsection (b)(4) restates Section 72290/1010.11.

(4) Employ and assign all personnel not inconsistent with the minimum standards adopted by the Board of Governors; and shall establish employment practices, salaries, and benefits for all employees not inconsistent with the laws of this state.

Subsection (b)(5) restates Section 72286/1010.7.

(5) To the extent authorized by law, determine and control the district's operational and capital outlay budgets.

Subsection (b)(6) restates Section 72287/1010.8.

(6) Manage and control district property, and may contract for the procurement of such goods and services as authorized by law.

Subsection (b)(7) restates Section 72292/1010.13.

(7) Establish procedures not inconsistent with minimum standards established by the Board of Governors to insure faculty the right to confer regarding academic and professional matters, and the right of employees and students to participate effectively in district and college governance.

Subsection (b)(8) restates Section 72292/1010.10.

(8) Establish rules and regulations governing student conduct.

Subsection (b)(9) restates Section 72285/1010.9.

(9) Establish such student fees as it is required to establish by law; and, in its discretion, such fees as it is authorized to establish by law.

Subsection (b)(10) restates Section 72288/1010.9.

(10) In its discretion, receive and administer gifts, grants, and scholarships.

Subsection (b)(11) restates Section 72291/1010.12.

(11) Provide such auxiliary services as deemed necessary to achieve the purposes of the community college.

Subsection (b)(12) restates Section 72284/1010.5.

(12) Within the framework provided by law, determine the district's academic calendar, including the holidays it will observe.

Subsection (b)(13) incorporates essential elements of Sections 72201 and 72300.

(13) Hold and convey property for the use and benefit of the district, and may acquire by eminent domain any property necessary to carry out the powers or functions of the district.

Subsection (b)(14) is new, and recognizes a district's obligation to participate in consultation.

(14) Participate in the consultation process established by the Board of Governors for the development and review of policy proposals.

Subsection (c) incorporates essential elements of Section 72282.

(c) In carrying out the powers and duties specified in subsection (b) or other provisions of statute, the governing board of each district shall have full authority to adopt rules and regulations, not inconsistent with the regulations of the Board of Governors and the laws of this state, which are necessary and proper to executing these prescribed functions.

Subsection (d) incorporates essential elements of Section 72282 regarding delegation. The provision is drafted so as to be parallel with the delegation authority provided to the Board of Governors.

(d) Wherever in this section or other statute a power is vested in a governing board, the governing board, by majority vote, may adopt a rule delegating such power to the district's chief executive officer or any other employee or committee as the governing board may designate; provided, however, that a governing board shall not delegate any power which is expressly made nondelegable by statute. Any rule delegating authority shall prescribe the limits of the delegation.

1969 DELINEATION OF FUNCTIONS LEGISLATION

CHAPTER 1026

An act to add an article heading immediately preceding Section 185 of, to add Article 3 (commencing with Section 200) to Chapter 1.5 of Division 2 of, and to add Article 1.5 (commencing with Section 1010) to Chapter 3 of Division 4 of, the Education Code, relating to public junior colleges.

[Approved by Governor August 28, 1969. Filed with Secretary of State August 29, 1969.]

The people of the State of California do enact as follows:

SECTION 1. An article heading is added immediately preceding Section 185 of the Education Code, to read:

Article 1. General

SEC. 2. Article 3 (commencing with Section 200) is added to Chapter 1.5 of Division 2 of the Education Code, to read:

Article 3. Powers, Duties, and Functions of the Board of Governors of the California Community Colleges

(71060) 200. By enacting this article the Legislature declares its intent to more specifically delineate the powers, duties, and functions of the Board of Governors of the California Community Colleges and the powers, duties, and functions of the local district governing boards operating junior colleges. This article shall be construed as an expression of the policy of the Legislature with regard to the functions of the above-mentioned boards, but shall not be construed as an enactment of specific legal provisions. Nothing contained in this article shall supplant existing law. Upon passage of this article by the Legislature, however, the Board of Governors of the California Community Colleges may take whatever steps are necessary to implement the policies contained in this article.

(71061) 200.1. As used in this article, "board of governors" means the Board of Governors of the California Community Colleges. "District governing board" means the governing board of a junior college district or the governing board of a district maintaining a junior college. "District" means a junior college district or a district maintaining a junior college.

(71062) 200.2. The board of governors shall adopt rules and regulations not inconsistent with the laws of this state for the government and supervision of the public junior colleges.

(71063) 200.3. The board of governors shall exercise general supervision over the formation of new junior college districts and the reorganization of existing junior college districts, including the approval or disapproval of plans therefor, and shall provide advisory service in connection with such formations

or reorganizations. The board of governors shall encourage county committees on school district organization to include all territory of the state within public junior college districts.

(71064) 200.4. The board of governors shall coordinate and encourage interdistrict, regional, and statewide development of public junior college programs and facilities.

(Repealed) 200.5. The board of governors shall approve the offering of out-of-district classes by public junior college districts.

(71028) 200.6. The board of governors shall review and approve academic master plans and master plans for facilities for each junior college district. These shall be submitted to the board of governors by the local governing board of each junior college district.

(71066) 200.7. The board of governors shall establish minimum standards to govern student academic standards relating to graduation requirements and probation, dismissal, and readmission policies.

(78200) 200.8. The board of governors shall review and approve all educational programs offered in the junior colleges. For the purposes of this section, "educational program" is a series of courses leading to a degree, a certificate, a diploma, or transfer to another institution of higher education. Individual courses offered under educational programs approved by the board of governors shall be approved by the district governing board and shall not be submitted to the board of governors for approval.

(71027) 200.9. The board of governors shall establish criteria and standards for graded and nongraded classes in junior colleges.

(78200/78401) 200.10. The board of governors shall approve, upon the submission of district governing boards, individual classes for adults that are eligible for state apportionments and are not part of an educational program as defined in Section 200.8.

(71068) 200.11. The board of governors shall establish minimum standards for the employment of academic and administrative staff in junior colleges.

(71069) 200.12. The board of governors shall conduct necessary statewide research on junior colleges and shall provide appropriate information services, including, but not limited to, definitions for the purpose of uniform reporting, collection, compilation and analysis of data for effective planning and coordination, and dissemination of information.

(71070) 200.13. The board of governors shall facilitate articulation with other segments of higher education and with secondary education.

(71071) 200.14. The board of governors shall represent the junior colleges before state and national legislative and executive agencies.

(71072) 200.15. The board of governors shall administer state support programs, both operational and capital outlay, and those federally supported programs for which the board of governors has responsibility pursuant to state or federal law.

(71073) 200.16. The board of governors shall establish a uniform system of budgeting and accounting for districts.

(76140) 200.17. The board of governors shall establish out-of-state tuition fees and advise district governing boards on procedures governing the admission of out-of-state students and foreign students.

(71075) 200.18. The board of governors shall establish procedures governing interdistrict attendance agreements and restrictions on attendance between districts.

(71076) 200.19. The board of governors shall establish space and utilization standards for facility planning in order to determine eligiblity for state funds for construction purposes.

(81031) 200.20. The board of governors shall establish recommended procedures regarding campus site selection.

(71078) 200.21. The board of governors shall plan for, and advise on, financial assistance and scholarship programs for junior college students.

(71079) 200.22. The board of governors shall establish minimum procedures to be used by district governing boards to insure to faculty and students the opportunity to express their opinions at the campus level and to insure that these opinions are given every reasonable consideration.

SEC. 3. Article 1.5 (commencing with Section 1010) is added to Chapter 3 of Division 4 of the Education Code, to read:

Article 1.5. Powers, Duties, and Functions of School District Governing Boards Operating Junior Colleges

(72280) 1010. By enacting this article the Legislature declares its intent to more specifically delineate the powers, duties, and functions of the school district governing boards operating junior colleges and the powers, duties, and functions of the Board of Governors of the California Community Colleges. This article shall be construed as an expression of the policy of the Legislature with regard to the functions of the above mentioned boards, but shall not be construed as an enactment of specific legal provisions. Nothing contained in this article shall supplant existing law. Upon passage of this article by the Legislature, however, the Board of Governors of the California Community Colleges is hereby directed to take whatever steps are necessary to implement the policies contained in this article.

(72281) 1010.1. As used in this article, "board of governors" means the Board of Governors of the California Community Colleges. "District governing board" means the governing board of a junior college district or the governing board of a district maintaining a junior college. "District" means a junior college district or a district maintaining a junior college.

(72282) 1010.2. The district governing board shall establish rules and regulations not inconsistent with the regulations of the board of governors and the laws of this state for the government and operation of one or more junior colleges in the district and delegate appropriate authority to officers, employees or committees of the district, the college, or the governing board.

(72231.5) 1010.3. The district governing board shall:

(a) Establish policies for, and approve, current and long-range educational plans and programs and promote orderly growth and development of the junior colleges within the district.

(b) Establish policies for, and approve, academic master plans and long-range master plans for facilities. The district governing board shall submit such master plans to the board of governors for review and approval.

(72283) 1010.4. The district governing board shall:

(a) Establish policies for, and approve, the total educational program of the junior college or colleges in the district.

(b) Establish policies for, and approve, all educational programs and to submit such programs to the board of governors for approval. For purposes of this subsection, "educational program" is defined as a series of courses leading to a degree, a certificate, a diploma, or transfer to another institution of higher education.

(c) Establish policies for, and approve, individual courses without referral to the board of governors.

(d) Approve all classes for adults and shall submit such classes as are eligible for state apportionments to the board of governors for approval.

(e) Approve and provide such classes, programs and facilities under the provisions of the Community Service Act, the Civic Center Act, and the Recreation Act as deemed appropriate.

(f) Establish policies for, and approve, all other programs and services of the junior college.

(g) Establish policies for, and approve, procedures for the adoption of instructional materials.

(72284) 1010.5. The district governing board shall determine which holidays it will observe and on what days it will observe them within the framework of providing the necessary number of days of instruction to qualify for state apportionments.

(72285) 1010.6. The district governing board shall establish academic standards, probation and dismissal and readmission policies, and graduation requirements not inconsistent with the minimum standards adopted by the board of governors.

(72286) 1010.7. The district governing board shall determine and control the district's operational and capital outlay budgets and shall present the budgets to county authorities for the purposes of establishing the district tax rates. The district governing board shall determine the need for elections for

override tax levies and bond measures and to request that such elections are called.

(72287) 1010.8. The district governing board shall manage and control district property. The district governing board may contract for the procurement of such goods and services as authorized by law.

(72288) 1010.9. The district governing board may receive and administer gifts, grants, and scholarships.

(72289) 1010.10. The district governing board may establish such student fees as it is authorized to establish by law.

(72290) 1010.11. The district governing board shall employ and assign all personnel not inconsistent with the minimum standards adopted by the board of governors. The district governing board shall establish employment practices, salaries, and benefits for all employees not inconsistent with the laws of this state.

(72291) 1010.12. The district governing board shall provide such auxiliary services as deemed necessary to achieve the purposes of the junior college.

(72292) 1010.13. The district governing board shall establish rules and regulations governing student conduct. The district governing board shall establish procedures not inconsistent with those established by the board of governors to insure faculty and students the opportunity to express their opinions at the campus level.

1010.14. The district governing board is authorized to apply directly to federal agencies or state agencies operating federal programs in order to obtain federal funds in accordance with general policies established by the board of governors.

Community Colleges as Part of Public School System; Duties of State Board of Education

66700. The public community colleges are secondary schools and shall continue to be a part of the public school system of this state. The Board of Governors of the California Community Colleges shall prescribe minimum standards for the formation and operation of public community colleges and exercise general supervision over public community colleges.

(Enacted by Stats. 1976, Ch. 1010.)

Rules and Regulations

71020. The board shall have the power to adopt such rules and regulations, not inconsistent with law, as are necessary for its own government and to enable the board to carry out all powers and responsibilities vested in it by law.

(Enacted by Stats. 1976, Ch. 1010.)

Legislative Intent

71023. It is the intent of the Legislature that the Board of Governors of the California Community Colleges shall provide leadership and direction in the continuing development of community colleges as an integral and effective element in the structure of public higher education in the state. The work of the board shall at all times be directed to maintaining and continuing, to the maximum degree permissible, local autonomy and control in the administration of the community colleges.

(Enacted by Stats. 1976, Ch. 1010.)

Adoption of Minimum Standards for Receipt of State Aid

71025. The Board of Governors of the California Community Colleges shall adopt rules and regulations fixing minimum standards entitling districts to receive state aid for the support of community colleges.

(Enacted by Stats. 1976, Ch. 1010.)

Annual Investigation to Determine if Standards Are Met

71026. The chancellor's office shall periodically, according to rules and regulations adopted by the board of governors, investigate each community college to determine whether it has met the standards prescribed pursuant to Section 71025. As part of such investigation, representatives of the chancellor's office may participate in the accreditation visits conducted by the regional accrediting agency, and one representative of the chancellor's office, who may be appointed by the chancellor, may serve as a member of the accrediting commission which accredits the public community colleges.

(Amended by Stats. 1979, Ch. 797.)

Standards for Credit and Noncredit Classes

71027. The Board of Governors of the California Community Colleges shall establish criteria and standards for credit and noncredit classes.

(Amended by Stats. 1979, Ch. 797.)

Master Plans

71028. The board of governors shall review and approve academic master plans and master plans for facilities for each community college district. Such plans shall be submitted to the board of governors by the local governing board of each community college district. Master plans for facilities submitted pursuant to Chapter 4 (commencing with Section 81800) of Part 49 of Division 7 of this title shall satisfy the requirements of this section in relation to master plans for facilities.

Each district shall annually submit changes in its approved academic master plan for approval by the board of governors.

(Enacted by Stats. 1976, Ch. 1010.)

General Duties: Budgeting and Accounting

71041. The board of governors shall:

(a) Revise and update budget manuals, forms and guidelines.

(b) Cooperate with federal and state agencies in prescribing rules and regulations, and instructions required by such agencies.

(c) Assess the needs and methods of collecting and disseminating financial information.

(d) Conduct workshops and conferences for the purpose of training community college district and county personnel.

(e) Provide consultant services to colleges and universities on courses of instruction relative to community college district budgets and accounting practices.

(Amended by Stats. 1979, Ch. 797.)

Annual Workshops

71042. The board of governors and a statewide association composed exclusively of community college district governing boards, school district governing boards, or county boards of education, or all of them acting jointly, may conduct annual workshops within this state. Such workshops shall include but are not limited to study and instruction on the subjects of school finance, the Education Code and related laws, and the ethics, duties, and responsibilities of community college district governing boards and county boards of education. A reasonable fee not to exceed the estimated pro rata cost of the workshop may be charged board members and members-elect who attend.

(Enacted by Stats. 1976, Ch. 1010.)

Gifts and Bequests

71046. The Director of Finance may give the Board of Governors of the California Community Colleges authority to accept on behalf of, and in the name of, the state such gifts, donations, bequests, and devises as may be made to the board of governors, or to any school or other institution under the jurisdiction of the board of governors which in his judgment would be of benefit to the state and, if made to a community college or other institution, would be of benefit to the community college or other institution. Gifts, donations, bequests, and devises may be made subject to such conditions or restrictions as the board of governors may deem advisable.

(Amended by Stats. 1977, Ch. 36.)

Rules and Regulations

71062. The board of governors shall adopt rules and regulations not inconsistent with the laws of this state for the government and supervision of the public community colleges.

(Enacted by Stats. 1976, Ch. 1010.)

Community College Districts

71063. The board of governors shall exercise general supervision over the formation of new community college districts and the reorganization of existing community college districts, including the approval or disapproval of plans therefor, and shall provide advisory service in connection with such formations or reorganizations. The board of governors shall encourage county committees on school district organization to include all territory of the state within public community college districts.

(Enacted by Stats. 1976, Ch. 1010.)

Community College Programs and Facilities

71064. The board of governors shall coordinate and encourage interdistrict, regional, and statewide development of public community college programs and facilities.

(Enacted by Stats. 1976, Ch. 1010.)

Minimum Academic Standards

71066. The board of governors shall establish minimum standards to govern student academic standards relating to graduation requirements and probation, dismissal, and readmission policies.

(Enacted by Stats. 1976, Ch. 1010.)

Minimum Employment Standards

71068. The board of governors shall establish minimum standards for the employment of academic and administrative staff in community colleges.

(Enacted by Stats. 1976, Ch. 1010.)

Information Services

71069. The board of governors shall conduct necessary statewide research on community colleges and shall provide appropriate information services, including, but not limited to, definitions for the purpose of uniform reporting, collection, compilation and analysis of data for effective planning and coordination, and dissemination of information.

(Enacted by Stats. 1976, Ch. 1010.)

Communication with Other Segments of Higher Education

71070. The board of governors shall facilitate articulation with other segments of higher education and with secondary education.

(Enacted by Stats. 1976, Ch. 1010.)

Representation of Community Colleges

71071. The board of governors shall represent the community colleges before state and national legislative and executive agencies.

(Enacted by Stats. 1976, Ch. 1010.)

Administration of State and Federally Supported Programs

71072. The board of governors shall administer state support programs, both operational and capital outlay, and those federally supported programs for which the board of governors has responsibility pursuant to state or federal law.
(Enacted by Stats. 1976, Ch. 1010.)

Budgeting and Accounting

71073. The board of governors shall establish a uniform system of budgeting and accounting for districts.
(Enacted by Stats. 1976, Ch. 1010.)

Interdistrict Attendance

71075. The board of governors shall establish procedures governing interdistrict attendance agreements and restrictions on attendance between districts.
(Enacted by Stats. 1976, Ch. 1010.)

Space and Utilization Standards

71076. The board of governors shall establish space and utilization standards for facility planning in order to determine eligibility for state funds for construction purposes.
(Enacted by Stats. 1976, Ch. 1010.)

Financial Assistance and Scholarship Programs

71078. The board of governors shall plan for, and advise on, financial assistance and scholarship programs for community college students.
(Enacted by Stats. 1976, Ch. 1010.)

Faculty and Student Participation

71079. The board of governors shall establish minimum procedures to be used by district governing boards to insure to faculty and students the opportunity to express their opinions at the campus level and to insure that these opinions are given every reasonable consideration.
(Enacted by Stats. 1976, Ch. 1010.)

Establishing and Maintaining Budget

71080. The board of governors shall, notwithstanding any other provisions of law, be solely responsible for establishing and maintaining the budgeting and accounting structure and procedures for the California Community Colleges.
(Added by Stats. 1981, Ch. 930.)

Term of Chancellor; Delegation of Power of Board

71091. The chancellor shall serve at the pleasure of the appointing power. He shall execute such duties and responsibilities as may be delegated to him by the board. Wherever in this code a power is vested in the board, the board, by a majority vote, may adopt a rule delegating such power to the chancellor or any officer, employee or committee as the board may designate. The rule shall prescribe the limits of the delegation.
(Amended by Stats. 1979, Ch. 797.)

Power to Sue, be Sued, Hold and Convey Property

72201. In the name by which the district is designated the governing board may sue and be sued, and hold and convey property for the use and benefit of the community college district.
(Enacted by Stats. 1976, Ch. 1010.)

Control of District by Board of Trustees or Board of Education

72230. Every community college district shall be under the control of a board of trustees.
(Enacted by Stats. 1976, Ch. 1010.)

Policies, Master Plans, and Programs

72231.5. The district governing board shall:

(a) Establish policies for, and approve, current and long-range educational plans and programs and promote orderly growth and development of the community colleges within the district.

(b) Establish policies for, and approve, academic master plans and long-range master plans for facilities. The district governing board shall submit such master plans to the board of governors for review and approval.
(Enacted by Stats. 1976, Ch. 1010.)

B-3

Authority of Governing Boards Commencing January 1, 1976

72233. On and after January 1, 1976, the governing board of any community college district, may initiate and carry on any program, activity, or may otherwise act in any manner which is not in conflict with or inconsistent with, or preempted by, any law and which is not in conflict with the purposes for which school districts are established.

The chancellor's office, to the extent it is able to do so within staffing constraints, shall advise and assist community college districts on the implementation and interpretation of this section.

(Amended by Stats. 1979, Ch. 797.)

Rules and Regulations

72282. The district governing board shall establish rules and regulations not inconsistent with the regulations of the board of governors and the laws of this state for the government and operation of one or more community colleges in the district and delegate appropriate authority to officers, employees or committees of the district, the college, or the governing board.

(Enacted by Stats. 1976, Ch. 1010.)

Holidays

72284. The district governing board shall determine which holidays it will observe and on what days it will observe them within the framework of providing the necessary number of days of instruction to qualify for state apportionments.

(Enacted by Stats. 1976, Ch. 1010.)

Standards and Policies

72285. The district governing board shall establish academic standards, probation and dismissal and readmission policies, and graduation requirements not inconsistent with the minimum standards adopted by the board of governors.

(Enacted by Stats. 1976, Ch. 1010.)

Operational and Capital Outlay Budgets

72286. The district governing board shall determine and control the district's operational and capital outlay budgets and shall present the budgets to county authorities for the purposes of establishing the district tax rates. The district governing board shall determine the need for elections for override tax levies and bond measures and to request that such elections are called.

(Enacted by Stats. 1976, Ch. 1010.)

District Property; Contracts for Goods and Services

72287. The district governing board shall manage and control district property. The district governing board may contract for the procurement of such goods and services as authorized by law.

(Enacted by Stats. 1976, Ch. 1010.)

Gifts, Grants, and Scholarships

72288. The district governing board may receive and administer gifts, grants and scholarships.

(Enacted by Stats. 1976, Ch. 1010.)

Student Fees

72289. The district governing board may establish such student fees as it is authorized to establish by law.

(Enacted by Stats. 1976, Ch. 1010.)

Employment of Personnel; Salaries and Benefits

72290. The district governing board shall employ and assign all personnel not inconsistent with the minimum standards adopted by the board of governors. The district governing board shall establish employment practices, salaries, and benefits for all employees not inconsistent with the laws of this state.

(Enacted by Stats. 1976, Ch. 1010.)

Auxiliary Services

72291. The district governing board shall provide such auxiliary services as deemed necessary to achieve the purposes of the community college.

(Enacted by Stats. 1976, Ch. 1010.)

Student Conduct; Faculty and Student Expression of Opinions

72292. The district governing board shall establish rules and regulations governing student conduct. The district governing board shall establish procedures not inconsistent with those established by the board of governors to insure faculty and students the opportunity to express their opinions at the campus level.

(Enacted by Stats. 1976, Ch. 1010.)

Power to Select and Acquire Sites and to Acquire or Construct School Facilities

72300. The governing board of any community college district may:

(a) Select and acquire sites within the boundaries of the district, and may acquire or construct thereon school facilities, as provided by law.

(b) Acquire by eminent domain any property necessary to carry out any of the powers or functions of the district.

(c) Acquire property, construct buildings, and maintain classes outside its boundaries on sites immediately adjacent to college sites of the district within its boundaries.

(Amended by Stats. 1981, Ch. 470.)

Eligibility for Admission to Two-Year Community College

76000. The governing board of a community college district maintaining a two-year community college shall admit to the community college any California resident, and may admit any nonresident, possessing a high school diploma or the equivalent thereof.

The governing board may admit to the community college any apprentice, as defined in Section 3077 of the Labor Code, who, in the judgment of the governing board or of the president of the community college if he or she is so authorized by rule of the governing board, is capable of profiting from the instruction offered.

The governing board may by rule determine whether there shall be admitted to the community college any other person who is over 18 years of age and who, in the judgment of the board or of the president of the community college if he or she is so authorized by the rule, is capable of profiting from the instruction offered. If the governing board determines to admit such other persons, any such person shall be admitted as a provisional student and thereafter shall be required to comply with the rules and regulations prescribed by the Board of Governors of the California Community Colleges or the chancellor's office pertaining to the scholastic achievement and other standards to be met by provisional or probationary students, as a condition to being readmitted in any succeeding semester. The provisions of this paragraph shall not apply to persons in attendance in special classes and programs established for adults pursuant to Chapter 3 (commencing with Section 78400) of Part 48, or to any persons attending on a part-time basis only.

(Amended by Stats. 1981, Ch. 470.)

Nonresident Tuition

76140. A community college district may admit and shall charge a tuition fee to nonresident students. The district may exempt from all or parts of the fee:

(a) All nonresidents who enroll for six or fewer units. Exemptions made pursuant to this subdivision shall not be made on an individual basis; or

(b) Any nonresident who is both a citizen and resident of a foreign country, provided that the nonresident has demonstrated a financial need for the exemption and not more than 10 percent of the nonresident foreign students attending any community college district may be so exempted. Exemptions made pursuant to this subdivision may be made on an individual basis.

A district may contract with a state, a county contiguous to California, the federal government, a foreign country, or an agency thereof, for payment of all or a part of a nonresident student's tuition fee.

Attendance of nonresident students shall not be reported as resident average daily attendance for state apportionment purposes, except as provided by statute in which case a nonresident tuition fee may not be charged.

The nonresident tuition fee shall be set by the governing board of each community college district not later than February 1 of each year for the succeeding fiscal year. Such fee may be paid in installments, as determined by the governing board of the district.

The fee established by the governing board pursuant to the preceding paragraph shall represent for nonresident students enrolled in 30 semester units or 45 quarter units of credit per fiscal year (a) the amount which was expended by the district for the current expense of education as defined by the California Community College Budget and Accounting Manual in the preceding fiscal year increased by the projected percent increase in the United States Consumer Price Index as determined by the Department of Finance for the current fiscal year and succeeding fiscal year and divided by the average daily attendance of all students (including nonresident students) attending in the district in the preceding fiscal year, or (b) the current expense of education in the preceding fiscal year of all districts increased by the projected percent increase in the United States

Consumer Price Index as determined by the Department of Finance for the current fiscal year and succeeding fiscal year and divided by the average daily attendance of all students (including nonresident students) attending all districts during the preceding fiscal year, or (c) an amount not to exceed the fee established by the governing board of any contiguous district. However, should the district's preceding fiscal year average daily attendance of all students attending in the district in noncredit courses be equal to or greater than 10 percent of the district's total average daily attendance of all students attending in the district, the district in calculating (a) above may substitute instead the data for current expense of education in grades 13 and 14 and average daily attendance in grades 13 and 14 of all students attending in the district.

The fee established by the governing board pursuant to the preceding paragraph shall represent for nonresident students enrolled in 30 semester units or 45 quarter units of credit per fiscal year (a) the amount which was expended by the district for the current expense of education as defined by the California Community College Budget and Accounting Manual in the preceding fiscal year increased by the projected percent increase in the United States Consumer Price Index as determined by the Department of Finance for the current fiscal year and succeeding fiscal year and divided by the average daily attendance of all students (including nonresident students) attending in the district in the preceding fiscal year, or (b) the current expense of education in the preceding fiscal year of all districts increased by the projected percent increase in the United States Consumer Price Index as determined by the Department of Finance for the current fiscal year and succeeding fiscal year and divided by the average daily attendance of all students (including nonresident students) attending all districts during the preceding fiscal year, or (c) an amount not to exceed the fee established by the governing board of any contiguous district. However, should the district's preceding fiscal year average daily attendance of all students attending in the district in noncredit courses be equal to or greater than 10 percent of the district's total average daily attendance of all students attending in the district, the district in calculating (a) above may substitute instead the data for current expense of education in grades 13 and 14 and average daily attendance in grades 13 and 14 of all students attending in the district.

The governing board of each community college district shall also adopt a tuition fee per unit of credit for nonresident students enrolled in more or less than 15 units of credit per term by dividing the fee determined in the preceding paragraph by 30 for colleges operating on the semester system and 45 for colleges operating on the quarter system and rounding to the nearest whole dollar. The same rate shall be uniformly charged nonresident students attending any terms or sessions maintained by the community college. The rate charged shall be the rate established for the fiscal year in which the term or session ends.

Any loss in district revenue generated by the nonresident tuition fee shall not be offset by additional state funding.

The provisions of this section which require a mandatory fee for nonresidents shall not apply to any district which borders on another state and has fewer than 500 average daily attendance.

(Amended by Stats. 1983, Ch. 317. Effective July 19, 1983.)

Preparation of Courses of Study; Review

78200. Courses of instruction and educational programs shall be prepared under the direction of the governing board of each community college district.

Such educational programs shall be submitted to the board of governors for approval. Courses of instruction which are not offered in approved educational programs shall be submitted to the board of governors for approval. The district governing board shall establish policies for, and approve, individual courses which are offered in approved educational programs without referral to the board of governors.

The board of governors shall review, and may approve, all educational programs and all courses which are required by this section to be submitted to it for approval.

For the purposes of this section, "course of instruction" means an instructional unit of an area or field of organized knowledge, usually provided on a quarter, semester, year, or prescribed length-of-time basis.

For the purposes of this section, "educational program" is an organized sequence of courses leading to a degree, a certificate, a diploma, a license, or transfer to another institution of higher education.

The provisions of this section apply to credit and noncredit classes of community colleges.

(Amended by Stats. 1977, Ch. 915.)

§ 3540. Purpose of chapter

It is the purpose of this chapter to promote the improvement of personnel management and employer-employee relations within the public school systems in the State of California by providing a uniform basis for recognizing the right of public school employees to join organizations of their own choice, to be represented by such organizations in their professional and employment relationships with public school employers, to select one employee organization as the exclusive representative of the employees in an appropriate unit, and to afford certificated employees a voice in the formulation of educational policy. Nothing contained herein shall be deemed to supersede other provisions of the Education Code and the rules and regulations of public school employers which establish and regulate tenure or a merit or civil service system or which provide for other methods of administering employer-employee relations, so long as the rules and regulations or other methods of the public school employer do not conflict with lawful collective agreements.

It is the further intention of the Legislature that nothing contained in this chapter shall be construed to restrict, limit, or prohibit the full exercise of the functions of any academic senate or faculty council established by a school district in a community college to represent the faculty in making recommendations to the administration and governing board of such school district with respect to district policies on academic and professional matters, so long as the exercise of such functions do not conflict with lawful collective agreements.

It is the further intention of the Legislature that any legislation enacted by the Legislature governing employer-employee relations of other public employees shall be incorporated into this chapter to the extent possible. The Legislature also finds and declares that it is an advantageous and desirable state policy to expand the jurisdiction of the board created pursuant to this chapter to cover other public employers and their employees, in the event that such legislation is enacted, and if this policy is carried out, the name of the Educational Employment Relations Board shall be changed to the "Public Employment Relations Board."

(Added by Stats.1975, c. 961, p. 2247, § 2, operative July 1, 1976.)

§ 13320. Submission by state agencies and courts

Every State agency and court for which an appropriation has been made, shall submit to the department for approval, a complete and detailed budget at such time and in such form as may be prescribed by the department, setting forth all proposed expenditures and estimated revenues for the ensuing fiscal year.

(Added by Stats.1945, c. 112, p. 478, § 1.)

APPENDIX C

The "Coordinating District" Concept

A proposal for improving community college governance is for the Board of Governors and Chancellor's Office to be discontinued as a state agency, and instead be reestablished as the "coordinating district" for community college districts. This proposal has the effect of making the Board of Governors/Chancellor's Office an entity of local government that would be controlled by statutes and constitutional provisions that affect local entities, rather than statutes and constitutional provisions that affect state agencies. Some of the major implications of this proposal are explored below:

1. **Authority**: Article IX, Section 14 of the California Constitution provides, in part:

> Sec. 14. The Legislature shall have power, by general law, to provide for the incorporation and organization of school districts, high school districts, and community college districts, of every kind and class, and may classify such districts. . .

Using this broad authority, the Legislature could construe the Board of Governors to be one class or kind of district, established to provide leadership, direction and and general supervision (see Section 2 of delineation) for the 70 districts of another class. The Constitution does not require that the Board of Governors be established as a state agency. The agency does carry out numerous "State" functions; but extensive case law also recognizes that school and community college districts carry out "state" functions, and these entities are not established as state agencies.

Limited research has disclosed no precedent for the approach. It clearly appears to be within the authority of the Legislature, however.

2. **Territory**: If the Board of Governors is established a s a coordinating district it will require some territory over which to have jurisdiction. This aspect has yet to be determined, but three alternatives which have been discussed are: all territory which is included in community college districts, all territory of the State, and a small piece of territory (such as that provided for the federal government in Washington, D.C.). The Board's governing authority over this territory or other districts, however defined, would be very different than the authority of district governing boards generally (see below).

3. **Governing Authority**: The authority of the Board of Governors would be that provided in Section 2 of the delineation. The Board would not have authority to conduct educational programs or otherwise operate as a college. In this sense, while the territory of the Board might be superimposed over that of the other districts, the Board's authority with respect to that territory would be limited to providing the leadership, direction and general supervision responsibilities identified in Section 2 of the delineation.

4. **Employees**: The status of employees of the Board of governors would need to be specified in legislation. Generally speaking, however, employees would be treated as employees of districts rather than employees of the State. Current proposals call for each *existing* employee to be given the choice as to whether to remain a state employee or switch to being an employee of the district. Legislation would also specify that employment laws applicable to community college districts generally would be applicable to the Board of Governors. This change would promote the interchange of employees between the systemwide office and districts because there would be one common structure of law regarding employment. In addition, collective bargaining laws applying to districts would be applicable. Salaries would not be subject to approval of the Department of Personnel Administration or State Personnel Board, but would remain under the purview of the Department of Finance through the budget process. The board would not be constrained, at least for new employees, to use the structure of positions and employment qualifications that exist within the State Civil Service.

5. **Regulations**: Regulations of the Board would no longer be subject to review and approval by the Office of Administrative Law. In addition, other provisions of law which control the adoption of regulations by State agencies (Government Code Sections 11340 et seq.) would no longer apply. Current proposals call for adding language to require 45 days notice, hearings and other procedural safeguards contained in the State Administrative Procedures Act.

6. **State-Mandated Costs**: Legislative mandates to the Board would involve state-mandated costs, since the Board would be construed to be a local agency. On the other hand, Board regulations would not be regulations of a state agency, and therefore would not involve state-mandated costs. This change would somewhat relieve districts of separately filing state-mandated cost claims with the Commission on State Mandates. If statutory mandates directly apply to districts, state mandated costs would be involved and reimbursement would be required. If legislation requires the Board to regulate, the costs of district implementation would be sought in the legislation itself, or through the annual budget act. In other words, the costs to districts of implementing the requirements to regulate would be determined at the time the charge to regulate is being considered.

7. **Meetings**: Board meetings would be subject to the Brown Act (Government Code Section 54950 et seq.), rather than the State Agency Meeting Act (Government Code Sections 11120 et seq.). The requirements of these two acts are very similar in nature, and would therefore result in little change on how the Board is required to conduct its business.

8. **Expenditure Limitation (Gann Limit)**: Further work is being done on the implications of the coordinating district concept on the Gann Limit. Initially, however, the annual appropriations to districts would be part of the Board's limit, which would have to be defined or established through legislation. Under this approach, it is conceivable that individuals districts could be relieved of expenditure limitations. Instead, the only appropriation subject to limitation would be the appropriation made to the Board of Governors.

9. **Contracts**: State procedures regarding contracts (Government Code, Public Contract Code and State Administrative Manual), including review and approval by General Services and the Department of Finance, would no longer apply. The Department of Finance would continue to have fiscal oversight of contracts, as well as other fiscal transactions. Provisions of the Public Contract Code relating to contracting by local agencies and community college districts would apply to the Board.

10. **Other**: Matters such as office space, telephones, equipment, travel reimbursement, and data processing would no longer be regulated by the State Administrative Manual, and involvement by the various specified control agencies would no longer be required. The Department of Finance, through the budget process and through its broad authority of fiscal oversight, would continue to exert considerable influence over these matters.

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